

Court of Appeals, State of Michigan

ORDER

In Re Gary Earl Leiterman, LPN RN

Docket No. 254033

LC No. 2002-000640

Jessica R. Cooper
Presiding Judge

Richard A. Bandstra

Kirsten Frank Kelly
Judges

Under the authority of MCR 7.216(A)(7), this Court orders this matter REMANDED to the Board of Nursing Disciplinary Subcommittee (BNDS) for further proceedings.

This Court's opinion and order entered September 13, 2005, directed the BNDS to "articulate the reasons for its rejection of the administrative law judge's (ALJ) proposal for decision." Pursuant to 1999 AC R 1630(5), "[i]f the disciplinary subcommittee . . . modifies or rejects the opinion or proposal for decision [of the ALJ], the reasons for that action shall be stated in the final order."

Contrary to this Court's opinion and order remanding this matter, the BNDS's October 5, 2005, order on remand *does not* articulate the reasons for rejection of the ALJ's proposal for decision. While the BNDS's ultimate finding changes the conditions of probation, the record is still inadequate for this Court's review.

On second remand, the BNDS is again ordered to state its reasons on the record for rejecting the ALJ's proposal and imposing probation in this case *or* SHOW CAUSE for its failure to comply with this Court's orders.

Proceedings on remand shall commence and be completed within 21 days of the Clerk's certification of this order. Within seven days after entry of the BNDS's final order, appellant shall file with this Court copies of all orders entered on remand. Should the BNDS again fail to articulate the reasons for its rejection of the ALJ's proposal for decision, this Court will schedule a date and time for hearing at which the director of the BNDS will be required to appear and show cause for that failure.

We retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 26 2005

Date

Sandra Schultz Mengel
Chief Clerk